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MINISTRY OF LAW (Legislative Department)

New Delhi, the 30th December, 1964/Pausa 9, 1886 (Saka)

The following Act of Parliament received the assent of the President on the 30th December, 1964, and is hereby published for general information:—

THE PAYMENT OF WAGES (AMENDMENT) ACT, 1964

No. 53 OF 1964

[30th December, 1964].

An Act further to amend the Payment of Wages Act, 1936.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Wages (Amendment) Act, 1964.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

4 of 1936. 2. To sub-section (5) of section 1 of the Payment of Wages Act, 1936 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:—

Amend-
ment of
section 1.

“Provided that in relation to any industrial establishment owned by the Central Government, with objects not confined to one State, no such notification shall be issued except in consultation with that Government.”.

3. In section 2 of the principal Act,—

Amend-
ment of
Section 2.

(i) for clause (i), the following clauses shall be substituted, namely:—

‘(i) “employed person” includes the legal representative of a deceased employed person;

(ia) "employer" includes the legal representative of a deceased employer;

(ib) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 and includes any place to which the provisions of that Act have been applied under sub-section (1) of section 85 thereof; 63 of 1948.

(ii) in clause (ii), for sub-clause (a), the following sub-clauses shall be substituted, namely:—

"(a) tramway service, or motor transport service engaged in carrying passengers or goods or both by road for hire or reward;

(aa) air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;";

(iii) after clause (ii), the following clause shall be inserted, namely:—

'(iia) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;'; 35 of 1952

(iv) for clause (iii), the following clause shall be substituted, namely:—

'(iii) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951;'. 69 of 1951.

Amendment of section 3.

4. In section 3 of the principal Act, in the proviso, for the words "shall be responsible", the words "shall also be responsible" shall be substituted.

Amendment of section 5.

5. In section 5 of the principal Act,—

(i) to sub-section (1), the following proviso shall be added, namely:—

"Provided that in the case of persons employed on a dock, wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be, shall be paid before the expiry of the seventh day from the day of such completion.";

(ii) to sub-section (2), the following proviso shall be added, namely:—

“Provided that where the employment of any person in an establishment is terminated due to the closure of the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his employment is so terminated.”;

(iii) in sub-section (3),—

(a) after the brackets and words “(otherwise than in a factory)”, the words “or to persons employed as daily-rated workers in the Public Works Department of the Central Government or the State Government” shall be inserted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that in the case of persons employed as daily-rated workers as aforesaid, no such order shall be made except in consultation with the Central Government.”;

(iv) in sub-section (4), for the words “All payments”, the words, brackets and figure “Save as otherwise provided in sub-section (2), all payments” shall be substituted.

6. In section 7 of the principal Act,—

Amend-
ment of
section 7.

(i) in sub-section (2),—

(a) in clause (e) and in clause (j), after the words “State Government”, the words “or any officer specified by it in this behalf” shall be inserted;

(b) for clause (f), the following clauses shall be substituted, namely:—

“(f) deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;

(ff) deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the State Government, and the interest due in respect thereof;

(fff) deductions for recovery of loans granted for house-building or other purposes approved by the State Government, and the interest due in respect thereof;";

(c) after clause (k), the following clauses shall be inserted, namely:—

"(l) deductions for payment of insurance premia on Fidelity Guarantee Bonds;

(m) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;

(n) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration, whether in respect of fares, freight, demurrage, wharfage and cramage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;

(o) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default.";

(ii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) Notwithstanding anything contained in this Act, the total amount of deductions which may be made under sub-section (2) in any wage period from the wages of any employed person shall not exceed—

(i) in cases where such deductions are wholly or partly made for payments to co-operative societies under clause (j) of sub-section (2), seventy-five per cent. of such wages, and

(ii) in any other case, fifty per cent. of such wages:

Provided that where the total deductions authorised under sub-section (2) exceed seventy-five per cent. or, as the case may be, fifty per cent. of the wages, the excess may be recovered in such manner as may be prescribed.

9 of 1890.

(4) Nothing contained in this section shall be construed as precluding the employer from recovering from the wages of the employed person or otherwise any amount payable by such person under any law for the time being in force other than the Indian Railways Act, 1890."

7. In section 10 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section 10.

"(1) A deduction under clause (c) or clause (o) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.

(1A) A deduction shall not be made under clause (c) or clause (m) or clause (n) or clause (o) of sub-section (2) of section 7 until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions."

8. In section 12 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

Amend-
ment of
section 12.

"(aa) recovery of an advance of money given after employment began shall be subject to such conditions as the State Government may impose;"

9. After section 12 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new sec-
tion 12A.

"12A. Deductions for recovery of loans granted under clause (fff) of sub-section (2) of section 7 shall be subject to any rules made by the State Government regulating the extent to which such loans may be granted and the rate of interest payable thereon."

Deductions
for reco-
very of
loans.

10. After section 13 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new sec-
tion 13A.

"13A. (1) Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed.

Mainten-
ance of
registers
and
records.

(2) Every register and record required to be maintained under this section shall, for the purposes of this Act, be preserved for a period of three years after the date of the last entry made therein."

Amend-
ment of
section 14.

11. In section 14 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

"(4) An Inspector may,—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises of any railway, factory or industrial establishment at any reasonable time for the purpose of carrying out the objects of this Act;

(c) supervise the payment of wages to persons employed upon any railway or in any factory or industrial establishment;

(d) require by a written order the production at such place, as may be prescribed, of any register or record maintained in pursuance of this Act and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;

(e) seize or take copies of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

(f) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(4A) The provisions of the Code of Criminal Procedure, 1898 5 of 1898. shall, so far as may be, apply to any search or seizure under this sub-section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code."

12. After section 14 of the principal Act, the following section shall be inserted, namely:—

“14A. Every employer shall afford an Inspector all reasonable facilities for making any entry, inspection, supervision, examination or inquiry under this Act.”.

Insertion
of new
section
14A.
Facilities
to be
afforded to
Inspectors.
Amend-
ment of
section 15.

13. In section 15 of the principal Act,—

(i) in sub-section (1),—

(a) after the word “appoint”, the following shall be inserted, namely:—

“a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State or”;

(b) for the words “of persons employed or paid in that area”, the following shall be substituted, namely:—

“of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the State Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.”;

(ii) in sub-section (2), for the words “six months”, wherever they occur, the words “twelve months” shall be substituted;

(iii) in sub-section (3), for the words “not exceeding ten rupees in the latter”, the following shall be substituted, namely:—

“not exceeding twenty-five rupees in the latter, and even if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding twenty-five rupees”;

(iv) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) If the authority hearing an application under this section is satisfied—

(a) that the application was either malicious or vexatious, the authority may direct that a penalty not

exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application; or

(b) that in any case in which compensation is directed to be paid under sub-section (3), the applicant ought not to have been compelled to seek redress under this section, the authority may direct that a penalty not exceeding fifty rupees be paid to the State Government by the employer or other person responsible for the payment of wages.

(4A) Where there is any dispute as to the person or persons being the legal representative or representatives of the employer or of the employed person, the decision of the authority on such dispute shall be final.

(4B) Any inquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code."

45 of 1886.

Amend-
ment of
section 16.

14. In section 16 of the principal Act,—

(i) in sub-section (1), after the words "and if", the words "deductions have been made from their wages in contravention of this Act for the same cause and during the same wage period or periods or if" shall be inserted;

(ii) in sub-section (2), for the words, brackets and figures "the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head", the words, brackets and figures "every person on whose behalf such application is presented may be awarded maximum compensation to the extent specified in sub-section (3) of section 15" shall be substituted.

Amendment
of section
17.

15. In section 17 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (a), after the words "three hundred rupees", the words "or such direction has the effect of imposing on the employer or the other person a financial liability exceeding one thousand rupees" shall be inserted;

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) by an employed person on any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act, or any other person permitted by the authority to make an application under sub-section (2) of section 15, if the total amount of wages claimed to have been withheld from the employed person exceeds twenty rupees or from the unpaid group to which the employed person belongs or belonged exceeds fifty rupees, or";

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No appeal under clause (a) of sub-section (1) shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited the amount payable under the direction appealed against.";

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) Where an employer prefers an appeal under this section, the authority against whose decision the appeal has been preferred may, and if so directed by the court referred to in sub-section (1) shall, pending the decision of the appeal, withhold payment of any sum in deposit with it.

(4) The court referred to in sub-section (1) may, if it thinks fit, submit any question of law for the decision of the High Court and, if it so does, shall decide the question in conformity with such decision."

16. In section 17A of the principal Act, in sub-section (1), for the words "any official of a registered trade union authorised in writing to act on his behalf", the words, brackets and figures "any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act or any other person permitted by the authority to make an application under sub-section (2) of section 15" shall be substituted.

Amendment of section 17A.

17. Section 19 of the principal Act shall be omitted.

Omission of section 19.

18. In section 20 of the principal Act,—

Amendment of section 20.

(i) in sub-section (1), for the words and figures "section 5 and sections 7 to 13", the words, figures and brackets "section 5

except sub-section (4) thereof, section 7, section 8 except sub-section (8) thereof, section 9, section 10 except sub-section (2) thereof, and sections 11 to 13" shall be substituted;

(ii) in sub-section (2), for the word and figure "section 6", the words, brackets and figures "sub-section (4) of section 5, section 6, sub-section (8) of section 8, sub-section (2) of section 10" shall be substituted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) Whoever being required under this Act to maintain any records or registers or to furnish any information or return—

(a) fails to maintain such register or record; or

(b) wilfully refuses or without lawful excuse neglects to furnish such information or return; or

(c) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or

(d) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act;

shall, for each such offence, be punishable with fine which may extend to five hundred rupees.

(4) Whoever—

(a) wilfully obstructs an Inspector in the discharge of his duties under this Act; or

(b) refuses or wilfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorised by or under this Act in relation to any railway, factory or industrial establishment; or

(c) wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act; or

(d) prevents or attempts to prevent or does anything which he has any reason to believe is likely to prevent any person from appearing before or being

examined by an Inspector acting in pursuance of his duties under this Act; .

shall be punishable with fine which may extend to five hundred rupees.

(5) If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purpose of this sub-section, no cognizance shall be taken of any conviction made more than two years before the date on which the commission of the offence which is being punished came to the knowledge of the Inspector.

(6) If any person fails or wilfully neglects to pay the wages of any employed person by the date fixed by the authority in this behalf, he shall, without prejudice to any other action that may be taken against him, be punishable with an additional fine which may extend to fifty rupees for each day for which such failure or neglect continues.”.

19. In section 21 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 21.

“(3A) No court shall take cognizance of any offence punishable under sub-section (3) or sub-section (4) of section 20 except on a complaint made by or with the sanction of an Inspector under this Act.”.

20. After section 22 of the principal Act, the following shall be inserted, namely:—

Insertion of new section 22A.

“22A. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.”

Protection of action taken in good faith.

Amend-
ment of
section 24.

21. In section 24 of the principal Act, after the word "railways," the words "air transport services," shall be inserted.

Amend-
ment of
section 26.

22. In section 26 of the principal Act,—

(i) in sub-section (3),—

(a) in clause (a), for the words "and prescribe the form thereof" the following words shall be substituted, namely:—

"prescribe the form thereof and the particulars to be entered in such registers or records";

(b) after clause (i), the following clauses shall be inserted, namely:—

"(ia) prescribe the extent to which loans may be granted and the rate of interest payable thereon with reference to section 12A;

(ib) prescribe the powers of Inspectors for the purposes of this Act;";

(c) in clause (k), the word "and" shall be omitted;

(d) in clause (l), the word "and" shall be inserted at the end;

(e) after clause (l), the following clause shall be inserted, namely:—

"(m) provide for any other matter which is to be or may be prescribed.";

(ii) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should

not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

R. C. S. SARKAR,
Secy. to the Govt. of India.

